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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,408	08/04/2003	Hiroaki Hashimoto	059277-0115	6003
22428	7590	06/30/2006	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				LARYEA, LAWRENCE N
ART UNIT		PAPER NUMBER		
		3735		

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/633,408	HASHIMOTO ET AL.	
	Examiner	Art Unit	
	Lawrence N. Laryea	3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 August 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-11 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 04 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/04/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: At page 4, line 9 "an retina " should read --a retina--. Appropriate correction is required.
2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it has more 150 words. Correction is required. See MPEP § 608.01(b).

Claim Objections

4. Claims 1 and 6 are objected to because of the following informalities: At claim 1, line 3 and claim 6 line 3 "an retina" should read --a retina--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 7-8 "the plural light fluxes converted by the first conversion member" lacks proper antecedent basis. Only one light flux was mentioned at the antecedent.

Claim 1, lines 8-9, it is unclear what guides the reflected light flux to the first light receiving part.

Claim 1, line 16, it is unclear as to what "they" refer to.

Claim 1, lines 14-19, the limitations "the mode changeover part" and "an arithmetic part" lack structure and attempt to define these limitations by the function to be performed and intended use; however, the claims fail to meet the requirements of 35USC 112(6) for defining limitations by function only. Therefore, the limitation "mode changeover part" and "an arithmetic part" are vague and indefinite.

Claim 1, lines 22-23 "the light fluxes converted by the first conversion member" lacks proper antecedent basis. Only one light flux was mentioned at the antecedent.

Claim 6, lines 7-8 and 14 "the plural light fluxes converted by the first conversion member" lacks proper antecedent basis. Only one light flux was mentioned at the antecedent.

Claim 6, lines 13-16, the limitation "an arithmetic part" lacks structure and attempts to define the limitations by the function to be performed and intended use; however the limitation fails to meet the requirements of 35USC 112(6) for defining limitations by their function only. Therefore, the limitation "an arithmetic part" is vague and indefinite.

Claim 7, line 5, it is unclear as to what "they" refer to.

Claim 7, lines 2 and 7, "the mode changeover part" and "an arithmetic part" lacks structure of this limitation and attempts to convey a function to be performed and defines by function, however no "means for" language exists. "The mode changeover part" and "an arithmetic part" is vague and indefinite.

Claim 7, line 9 "the plural light fluxes converted by the first conversion member" lacks proper antecedent basis. Only one light flux was mentioned at the antecedent.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by

Mihashi et al (US Patent 6802609) .

8. Re Claim 1,6 and 9: **Mihashi et al** teach an ophthalmic measuring apparatus comprising: a first illuminating optical system including a first light source for emitting a light flux of a first wavelength, for illuminating a retina of a subject eye, to be condensed on a place close to the retina, with the first illumination light flux from the first light source; a first light receiving optical system including a first conversion member for converting a reflected light flux reflected by the retina of the subject eye into at least 17 beams, and a first light receiving part for receiving the plural light fluxes converted by the first conversion member as first received light signals, for guiding the reflected light flux to the first light receiving part; (**See Col 2 , line 25-49**).

first movement means for moving a condensing position of the first illuminating optical system (**See Col 4 , line 23-33**) ; second movement means for optically moving the first light receiving part and the first conversion member (**See Col 7 , line 6-8**);

a mode changeover part for switching between an interlock mode in which movement operations of the first movement means and the second movement means are interlocked (**See Col 4 , line 55-60**) and an independent mode in which they can be independently controlled(**See Col 4 , line 23-33**) and (**See Col 7 , line 6-8**) and an arithmetic part for obtaining an optical characteristic of the subject eye by performing a Zernike analysis on the basis of tilt angles of the light fluxes obtained by the first light receiving part, wherein the first movement means and the second movement means can adjust the condensing position of the first illumination light flux and condensing positions of the light fluxes converted by the first conversion member according to received light positions and/or received light levels of the first received light signals at the first light receiving part. (**See Col 1, line 1-49**) and (**See Col 2, line 46-67**).

The illuminating optical system and light receiving part and the first conversion member can be moved and adjusted together or independently. The arithmetic control unit can calculate, analyze, and evaluate the optical characteristics of the eye based on the receiving position of the luminous flux from the measurement optical system obtained in the first light receiving unit and the receiving position of the luminous flux from the reference optical system.

9. Re Claim 2,3,4, and 10: **Mihashi et al** teach an independent mode is selected by the mode changeover part, the arithmetic part obtains received light position intervals from the first received light signals at the first light receiving part, and the condensing positions of the light fluxes converted by the first conversion member can be adjusted

by the second movement means so that the intervals fall within a predetermined interval range. (See Col 1, line 37-53), (See Col 2, line 46-66), (See Col 7, line 6-8) and (See Col 6, line 59-68)

The arithmetic part unit controls all unit systems (See Col 2, line 50-65)

The arithmetic control unit can calculate, analyze, and evaluate the optical characteristics of the eye based on the receiving position of the luminous flux from the measurement optical system obtained in the first light receiving unit and the receiving position of the luminous flux from the reference optical system. (See Col 2, line 50-65) and (See Col 1, line 37-53).

10. Re Claim 5: Mihashi et al teach when the independent mode is selected by the mode changeover part, in accordance with an operation of an input part by an operator (270), the condensing positions of the light fluxes converted by the first conversion member can be adjusted by the second movement means, and the condensing position of the first illumination light flux can be adjusted by the first movement means. (See Col 4, line 23-33), (See Col 6, line 46-67) and (See Col 7, line 1-11).

11. Re Claim 6 and 11: Mihashi et al teach a refractive power measurement illuminating optical system for irradiating a retina of the subject eye with a pattern for refractive power measurement; and a refractive power measurement light receiving optical system for receiving a pattern image projected on the retina of the subject eye, wherein the arithmetic part obtains refractive power from the pattern image received by the refractive power measurement light receiving optical system, and moves the first

illuminating optical system and the first light receiving optical system together by the first and the second movement means on the basis of the refractive power. (**See Col 3, line 53-60), (See Col 2, line 43-60) and (See Col 4, line 50-63).**

12. Re Claim 7 and 8: **Mihashi et al** teach an illuminating optical system and light receiving part and the first conversion member can be moved and adjusted together or independently. The arithmetic control unit can calculate, analyze, and evaluate the optical characteristics of the eye based on the receiving position of the luminous flux from the measurement optical system obtained in the first light receiving unit and the receiving position of the luminous flux from the reference optical system. (**See Col 2 , line 25-49).**

Conclusion

13. The prior art made of record and not relied upon is considered to applicant's disclosure.

14. **Mihashi et al (US Patent 6905209)** teach that a first illumination optical system 10 and the first light receiving optical system 20 are moved together so that on the assumption that the light flux from the first light source 11 is reflected at the condensed point, a signal peak by the reflected light at the first light receiving section 23 becomes maximum.

15. **Fujieda (US Patent 6361168)** teach an ophthalmic apparatus comprising a moving device for relatively moving a measurement unit with respect to the eye,

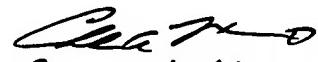
wherein the measurement unit includes a measurement system for measuring the characteristic of the eye, a position detecting device for detecting a relative position of the measurement unit with respect to the eye at the time of measurement, a storing device for storing detected position data, and a processing device for performing a predetermined processing based on a plurality of position data stored in each measurement.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence N. Laryea whose telephone number is 571-272-9060. The examiner can normally be reached on 8:30 a.m.-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marmor II, Charles Marmor II can be reached on 571-272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

LNL

May 25, 2006


Charles A. Marmor, II
SPE, Art Unit 3735